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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,725	12/02/2003	Terry Swanson		3085

7590 07/18/2005

Law Offices Of Adam H. Jacobs  
Suite 726  
1904 Farnam Street  
Omaha, NE 68102

EXAMINER

JULES, FRANTZ F

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/725,725

Applicant(s)

SWANSON ET AL.

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoerle (US 2,022,348).

Claims 1-2, 6-7

Hoerle discloses an improved shopping cart wheel comprising a wheel hub (12, 13) supporting a wheel thereon and having a central axial opening having inner and outer sides;

a first precision bearing unit (16) having a rotating cylindrical central hub (18), an outer toroidal bearing jacket surrounding said central hub and a plurality of ball bearings rotatably mounted within said outer toroidal bearing jacket and rotatably supporting said rotating central hub therebetween as seen in figs. 1-3;

a second precision bearing unit (21) having a rotating cylindrical central hub (19), an outer toroidal bearing jacket surrounding said central hub and a plurality of ball bearings rotatably mounted within said outer toroidal bearing jacket rotatably supporting said rotating central hub therebetween;

said first and second precision bearing units mounted within said central axial opening of said wheel said first precision bearing unit adjacent one end of said central axial

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opening and said second precision bearing unit adjacent the opposite end of said central axial opening; and said central hub (18) of said first precision bearing unit contacting said central hub (19) of said second precision bearing unit in generally coaxial alignment within said central axial opening as shown in fig. 3 such that said improved shopping cart wheel will withstand greater side load forces and have increased weight-carrying capacity.

A generally cylindrical metal spanner tube (22) mounted within said central axial opening and extending between and connecting said rotating central hubs of said first and second precision bearing units such that the structural strength of said improved shopping cart wheel is increased, see col. 2, lines 11-14.

The first and second precision bearing units are each sealed to generally prevent incursion of foreign objects into said first and second precision bearing units and the need for lubrication of said first and second precision bearing units is generally eliminated in accordance with claim 5.

Regarding the limitations of a shopping cart used in claims 6-7, the examiner's position is that the claim subject matter is drawn to the structure of the wheel and not to the shopping cart. Moreover, the wheel of Hoerle is fully capable of operation in a shopping cart.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

**A person shall be entitled to a patent unless –**

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3, 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hicks (US 5,518,322).

Hicks discloses an improved shopping cart wheel comprising a wheel hub (11) supporting a wheel thereon and having a central axial opening having inner and outer sides;

a first precision bearing unit (16) having a rotating cylindrical central hub (13), an outer circular bearing jacket surrounding said central hub and a plurality of ball bearings rotatably mounted within said outer circular bearing jacket and rotatably supporting said rotating central hub therebetween as seen in figs. 1-3;

a second precision bearing unit (29) having a rotating cylindrical central hub, an outer circular bearing jacket surrounding said central hub and a plurality of ball bearings rotatably mounted within said outer circular bearing jacket rotatably supporting said rotating central hub therebetween;

said first and second precision bearing units mounted within said central axial opening of said wheel said first precision bearing unit adjacent one end of said central axial opening and said second precision bearing unit adjacent the opposite end of said central axial opening; and said central hub of said first precision bearing unit contacting said central hub of said second precision bearing unit in generally coaxial alignment within said central axial opening as shown in fig. 3 such that said improved shopping cart wheel will withstand greater side load forces and have increased weight-carrying capacity.

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A generally cylindrical metal spanner tube (15) mounted within said central axial opening and extending between and connecting said rotating central hubs of said first and second precision bearing units such that the structural strength of said improved shopping cart wheel is increased, see col. 2, lines 11-14.

The first and second precision bearing units are each sealed to generally prevent incursion of foreign objects into said first and second precision bearing units and the need for lubrication of said first and second precision bearing units is generally eliminated in accordance with claim 5.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks (US 5,518,322) in view of Denner et al (US 6,367,885).

Hicks teaches all the limitations of claim 4 except for a shopping cart wheel comprising bearings each having outer circular jackets of generally square U-shaped in cross-section. The general concept of providing bearings each having outer circular jackets of generally square U-shaped in cross-section to a wheel is well known in the art as illustrated by Denner et al which discloses the teaching of bearings each having outer circular jackets of generally square U-shaped in cross-section. It would have

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been obvious to one of ordinary skill in the art at the time of the invention to modify hicks to include the use of bearings each having outer circular jackets of generally square U-shaped in cross-section to the wheel of his advantageous shopping cart wheel as taught by Denner et al in order to prevent wobbling thereby increasing the stability of the wheel.

### ***Response to Arguments***

7. Applicant's arguments filed 05/23/2005 have been fully considered but they are moot in view of the new ground of rejection.

Applicant's argument that the references of record Hoerle and Denner et al fail to disclose a generally cylindrical metal spanner tube forces the withdrawal of the anticipation rejection of the claims over Denner et al reference. A generally cylindrical metal spanner tube, however, is fully disclosed by the Hoerle reference.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kinney et al are cited to show related wheel comprising a metal spinner tube.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

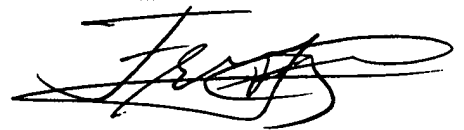
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

June 29, 2005

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Frantz', with a large, sweeping flourish extending to the right.